IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3091 of 2002
with
SPECIAL CIVIL APPLICATIONS No 3733, 7717, 8527, 8539,
8566, 8671 and 8681 of 2002.

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHIRAG INDRAVADAN BRAHMBHATT
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 3091 of 2002
MR RAJESH R DEWAL for Petitioner No. 1
MR AY KOGJE & MR RV DESAI, AGP for Respondent No. 1
RULE SERVED BY DS for Respondent No. 2
MR HS MUNSHAW for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 23/09/2002

COMMON ORAL JUDGEMENT

Rule in Special Civil Applications No.7717, 8527, 8539, 8566, 8671 and 8681 of 2002. The learned counsel for the respective respondents in all these matters waive service of rule.

2. In all these petitions, the learned counsel for the respective petitioners state that the petitions challenge the decision of the respondent-authorities rejecting their claim for compassionate appointment on the ground that the income of the respective families exceeds the prescribed limit of Rs.2500/-p.m..

3. The contention raised by the petitioners is that if family pension is not included in the income to be considered for the purpose of compassionate appointment, the income of the respective families will not exceed the prescribed limit. It is also contended that as per the Government Resolution dated 10-3-2000 the income limit has been done away with. Reliance is also placed on the decision dated 15-6-2001 of this Court in Special Civil Application No.799 of 2001 and other decisions which are produced along with some of the petitions.
Today the petitions have come up for final disposal.

4. At the hearing of these petitions, the learned counsel for the petitioners have sought leave to place on record a copy of the Government Resolution dated 7-9-2002 laying down that the Government Resolution dated 10-3-2000 doing away with the income limit in matters of compassionate appointment shall be given effect from 1-1-1996.
Leave as prayed for is granted.

5. In view of the aforesaid resolution, it is clear that in cases where deceased expired on or after 1-1-1996, the compassionate appointment cannot be refused on the ground of the income of the families exceeding the prescribed limit as no limit would now be applicable.

6. In view of the statement being made by the learned counsel for the respective petitioners that in the cases covered by this judgment, the death of the concerned Government employee took place while holding office and on or after 1-1-1996, it is obvious that the present cases will be governed by the Government Resolution dated 10-3-2000 read with the Government Resolution dated 7-9-2002.

7. In view of the above discussion, these petitions are allowed. The impugned decisions rejecting the

applications of the petitioners for compassionate appointment on the ground that the income of the families exceeds the prescribed limit are quashed and set aside, and the respondents are directed to re-consider the cases of the respective petitioners on the basis of the aforesaid Government Resolution dated 10-3-2000 read with the Government Resolution dated 7-9-2002. This direction shall be complied with within two months from the date of receipt of the writ of this Court or a certified copy of this judgment, whichever is earlier.

Rule is made absolute with no order as to costs.

Direct service is permitted.

(M.S. Shah,J)

zgs/-